APPENDIX

Section 9 of the Immigration Act of 1903, as amended (Acts of March 3, 1903, c. 1012, 32 Stat. 1215; Feb. 5, 1917, c. 29, § 9, 39 Stat. 880; May 26, 1924, c. 190, § 26, 43 Stat. 166) (8 U. S. C. 145), provides:

> It shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel, to bring to the United States either from a foreign country or any insular possession of the United States any alien afflicted with idiocy, insanity, imbecility, feeble-mindedness, epilepsy, constitutional psychopathic inferiority, chronic alcoholism, tuberculosis in any form, or a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Attorney General [formerly the Secretary of Labor] that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation, and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel, shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of $1,000, and in addition a sum equal to that paid by such alien for his transportation from

the initial point of departure, indicated in his ticket, to the port of arrival, for each and every violation of the provisions of this section, such latter sum to be delivered by the collector of customs to the alien on whose account assessed. * * * No vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fines, or while the fines remain unpaid, nor shall such fines be remitted or refunded; but clearance may be granted prior to the determination of such question upon the deposit of a sum sufficient to cover such fines or of a bond with sufficient surety to secure the payment thereof, approved by the collector of customs. * * *

Section 7 of the Air Commerce Act of 1926 (Act of May 20, 1926, c. 344, § 7, 44 Stat. 572) (49 U. S. C. 177) provides:

SEC. 7. *Application of existing laws relating to foreign commerce.*

(a) *Application of navigation and shipping laws to aircraft.* The navigation and shipping laws of the United States, including any definition of "vessel" or "vehicle" found therein and including the rules for the prevention of collisions, shall not be construed to apply to seaplanes or other aircraft or to the navigation of vessels in relation to seaplanes or other aircraft.

(b) *Designation of ports of entry; detail of officers; application of customs and public health laws.* The Secretary of the Treasury is authorized to (1) designate places in the United States as ports of entry for civil aircraft arriving in the United States from any place outside thereof and for merchandise carried on such aircraft, (2) detail to ports of entry for civil

aircraft such officers and employees of the customs service as he may deem necessary, and to confer or impose upon any officer or employee of the United States stationed at any such port of entry (with the consent of the head of the Government department or other independent establishment under whose jurisdiction the officer or employee is serving) any of the powers, privileges, or duties conferred or imposed upon officers or employees of the customs service, and (3) by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of the customs and public health laws to such extent and upon such conditions as he deems necessary.

(c) *Application of laws relating to entry and clearance of vessels.* The Secretary of Commerce is authorized by regulation to provide for the application to civil aircraft of the laws and regulations relating to the entry and clearance of vessels to such extent and upon such conditions as he deems necessary.

(d) *Designation of ports of entry for aliens; detail of officers; application of laws relating to immigration.* The Attorney General [formerly the Secretary of Labor] is authorized to (1) designate any of the ports of entry for civil aircraft as ports of entry for aliens arriving by aircraft, (2) detail to such ports of entry such officers and employees of the immigration service as he may deem necessary, and to confer or impose upon any employee of the United States stationed at such port of entry (with the consent of the head of the Government department or other independent establishment under whose jurisdiction the officer or employee is serving) any of the powers,

> privileges, or duties conferred or imposed upon officers or employees of the immigration service, and (3) by regulation to provide for the application to civil-air navigation of the laws and regulations relating to the administration of the immigration laws to such extent and upon such conditions as he deems necessary.

Section 11 (b) of the Air Commerce Act of 1926 (Act of May 20, 1926, c. 344, § 11 (b), 44 Stat. 574) originally provided:[18]

> (b) Any person who (1) violates any provision of subdivision (a) of this section or any entry or clearance regulation made under section 7, or (2) any customs or public health regulation made under such section, or (3) any immigration regulation made under such section, shall be subject to a civil penalty of $500 which may be remitted or mitigated by the Secretary of Commerce, the Secretary of the Treasury, or the Secretary of Labor, respectively, in accordance with such proceedings as the Secretary shall by regulation prescribe. * * *

Rules 5A2 and 5G1 of the Immigration Laws and Rules of January 1, 1930 (8 C. F. R. 5.2, 5.17), provided:

> Rule 5A2. Civil aircraft engaged in foreign air commerce and bringing passengers from Canada or Mexico shall, for the purpose of the immigration laws and regulations, except as herein provided for, be re-

[18] Certain amendments not here material were subsequently made (Acts of June 19, 1934, c. 656, § 2, 48 Stat. 1116; June 23, 1938, c. 601, § 1107 (i) (9), 52 Stat. 1029) (49 U. S. C. 181 (b)). Their purpose and immateriality here are discussed in the district court's opinion (R. 25–26).

garded as are other common carriers bringing aliens to border ports of entry from such countries. All other civil aircraft engaged in foreign commerce shall, for the purpose of the immigration laws and regulations, except as otherwise provided, be treated as vessels.[19]

Rule 5G1. For a violation of any of these regulations, unless the penalty for such violation is otherwise provided for by immigration laws and general regulations, the civil penalty of $500 authorized by section 11, paragraph (b), Air Commerce Act of 1926 * * *, will be enforced.[20] * * *

[19] This rule has subsequently been amended so as to read: Aircraft arriving from Canada or Mexico and landing at a land border port of entry and aircraft departing from such port of entry for Canada or for Mexico shall for the purposes of the immigration laws and regulations, except as otherwise provided in this Part, be regarded the same as other common carriers arriving at or departing from land border ports of entry. All other aircraft operating in foreign commerce or between areas of the United States shall for the purposes of the immigration laws and regulations be subject to the same requirements and liabilities as are vessels (operating on water) except as otherwise provided in this part or by statute specifically relating to aircraft. (8 C. F. R., 1941 Supp., 116.52.)

[20] This has subsequently been amended so as to read: Any person who violates any provision of this part which relates to immigration shall be subject to the civil penalty of $500 authorized by section 11 (b), Air Commerce Act of 1926, as amended (49 U. S. C. 181 (b)), except that where such offense in connection with an aircraft would be a violation of the immigration laws and general regulations if the aircraft were a vessel (operating on water), the penalty shall be the same as would apply in the case of a vessel. (8 C. F. R., 1941 Supp., 116.60 (a).)

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